



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,269	06/16/2006	Richard Arthur Birch	056222-5098	2659

9629 7590 04/29/2008
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER

NGUYEN, THUY-AI N

ART UNIT	PAPER NUMBER
----------	--------------

1796

MAIL DATE	DELIVERY MODE
-----------	---------------

04/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,269	Applicant(s) BIRCH ET AL.	
	Examiner THUY-AI N. NGUYEN	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1- 2, 5- 6, and 8- 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1- 2, 5- 6, and 8- 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 9 is objected to because of the following informalities: claim 9 cannot depend on itself. Appropriate correction is required. For the purpose of examination, the Office will consider that claim 9 is depending on claim 1.

Response to Amendment

Applicant's response filed on 01/30/2008 has fully considered. Claims 1, 2, 6, 8-11, 13, 15- 16 are amended. Claims 3- 4, and 7 are cancelled. Claims, 1- 2, 5- 6, and 8- 19 are pending.

Claim rejection under 35 USC § 112, second paragraph has been withdrawn responding to amendment of claims 6, 8-11, and 15-16.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 2, 5- 6, and 8- 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Birch et al. (US. 2003/0180340) in view of Allen et al. (US. 2001/0016566).

Regarding claim 1, Birch et al. teach a process for the production of particle which comprises a core absorbing perfume and is encapsulated with at least one water soluble material, which is impervious to the said perfume (abstract), wherein the process [0086] comprising:

- a) mixing core material and perfume in aqueous solution to produce a slurry solution [0062], and mixing with the aqueous solution of encapsulating material (syrup of sugar, [0089])
- b) heating the slurry to reduce the water content [0089],
- c) extruding through die [0090], and
- d) cutting and producing the product in form of particles [0090].

Birch et al. teach that the process of making the particles by any extrusion [0089]. However, Birch et al. do not specifically teach the method of making the composition comprising the extruder that has an internal diameter greater than 45 mm as recited in claim 1 by the applicant. Allen et al. teach the method of making the solid bar detergent comprising the extrusion process (abstract), wherein the extruder is twin screw extruder [0111], or the extruder having 50 mm internal diameter (example 1, [0263]). Birch et al. and Allen et al. are analogous arts because they are in the same field of endeavor, namely, a process of making the detergent composition comprising the extrusion process. At the time of the invention, it would have been obvious to one of

Art Unit: 1796

ordinary skill in the art to use the extruder having 50 mm internal diameter in the teaching of Allen et al. in the teaching of Birch et al.. The motivation would be to have more holes of the required size from the extruder, so that the extrusion process will be faster.

Regarding claim 2, Birch et al. teach the process of making the particles comprising step of mixing the core material, perfume in an aqueous without using external heat [0062], which is at room temperature, wherein the Tg of the encapsulating material is from 0 to 180 degree of Celsius [0080]. Thus, the temperature of the slurry is above the Tg of the encapsulating material when the Tg is from 0 to less than 25 degree of Celsius.

Regarding claim 5, Birch et al. teach the process of making perfume particles. Birch et al. do not clearly teach of using low shear for preheating the composition. Allen et al. teach the process of making detergent composition comprising step of heating the composition above the ambient temperature, above 30 or 40 degree of Celsius before performing the extrusion in the mould [0074- 0076]. Official notices using low shear in pre-heater is well known. At the time of the invention, it would be obvious to one of ordinary skill in the art to use the low shear in pre-heater to produce the desired product without decomposing it.

Regarding claim 6, Birch et al. teach the process of making perfume particles comprising extrusion. However, Birch et al. do not teach of using the extruder having internal diameter greater than 60 mm. Allen et al. teach the method of making the detergent tablet using the twin screw extruders [0111] which is well known to have the

Art Unit: 1796

screw diameter of from 40 mm to 125 mm. Birch et al. and Allen et al. are analogous arts because they are in the same field of endeavor, namely, a process of making the detergent composition comprising the extrusion process. At the time of the invention, it would have been obvious to one of ordinary skill in the art to use one of the well known twin screw extruder having the same diameter as recited in claim 6 in Birch et al.. The motivation would be to have more holes of the required size, so that the extrusion process will be faster.

Regarding claim 8, Birch et al. teach the process of making perfume particles, wherein the water soluble encapsulating material is present in an amount of from 40 to 60 percent by weight of the composition [0081].

Regarding claim 9, Birch et al. teach the process of making perfume particles, wherein the aqueous solution or water is present in an amount of from 0 percent [0084], up to 47 percent in the encapsulating material (example 1, p. 8).

Regarding claim 10, Birch et al. teach the process of making perfume particles, wherein the monomer making the core is present in an amount of from 10 to 40 percent by weight of the monomer mixture [0035], which makes a slurry mixture in the core making process [0062].

Regarding claim 11, Birch et al. teach the process of making perfume particles, wherein the perfume is present in an amount of from 5 to 50 percent by weight of the particle [0053].

Regarding claim 12, Birch et al. teach the process of making perfume particles, wherein the particles comprise pigments and dyes [0082].

Regarding claim 13, Birch et al. teach the process of making perfume particles, wherein the extruded material is cut by the blade to produce particle in desired size [0090].

Regarding claim 14, Birch et al. teach the process of making perfume particles, wherein the slurry in the extruder is heated up to 140 degree of Celsius to remove the excess water (example 9, p. 10).

Regarding claim 15, Birch et al. teach the process of making perfume particles with the extrusion process, wherein the slurry is heated to reduce the excess water in the extruder (example 9, p. 10). The experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicants' claims patentable in the absence of unexpected results. In re Aller, 105 USPQ 233. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to optimize the amount of water reduced during the extrusion to obtain the desired product with the right moisturizing level. A prima facie case of obviousness may be rebutted, however, where the results of the optimizing variable, which is known to be result-effective, are unexpectedly good. In re Boesch and Slaney, 205 USPQ 215.

Regarding claim 16, Birch et al. teach the process of making perfume particles, wherein the extruder is maintained in the range of the temperature from 20 to 140 degree of Celsius (example 9, p. 10).

Regarding claim 17, Birch et al. teach the process producing particles (abstract).

Regarding claim 18, Birch et al. teach incorporating the particles on the dry product or article [0101].

Regarding claim 19, Birch et al. teach the products or articles are laundry product, auto dish- washing powder, auto dish- washing tablets, sheet conditioners, soaps, and granular cleaning composition [0101].

Response to Arguments

Applicant's arguments filed 01/30/2008 have been fully considered but they are not persuasive.

Birch et al. (US. 2003/0180340) which is equivalent to the WO 02/09663 is qualified as 102(b) reference because it is published over a year from the effective filing date of the instant application 10/583269, which claims the effective filing date of the PCT/GB04/05244. The effective filing date of the PCT is December 14, 2004.

Applicant's arguments with respect to claim 1- 2, 5- 6, and 8- 19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 1796

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THUY-AI N. NGUYEN whose telephone number is (571)270-3294. The examiner can normally be reached on Monday-Friday: 8:30 a.m. - 5:00 p.m. eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on 571-272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MARK EASHOO/
Supervisory Patent Examiner, Art Unit 1796
28-Apr-08

April 24, 2008
Patent Examiner
Thuy- Ai N. Nguyen